

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
NORTHERN DIVISION

- - - - - x  
:  
UNITED STATES OF AMERICA, :  
:  
v. : Criminal No. 03-0088-WDQ  
:  
ANTHONY J. MARCANTONI, :  
:  
Baltimore, Maryland :  
Defendant. :  
- - - - - x January 18, 2013

**HEARING**

BEFORE: THE HONORABLE WILLIAM D. QUARLES, Judge

APPEARANCES: DEBORAH JOHNSTON, Esq.  
Office of the United States Attorney  
36 S. Charles St., 4th Fl.  
Baltimore, MD 21201  
On Behalf of the Government

HOWARD L. CARDIN, Esq.  
STEVEN LEVINE, Esq.  
Cardin and Gitomer, P.A.  
211 Saint Paul Place  
Baltimore, MD 21202  
On Behalf of the Defendant

ALSO PRESENT: JOHN ALBERT, Probation Officer  
On Behalf of Department of Parole  
and Probation

Audio Operator: Katina Tyson

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5100 Forbes Boulevard, Suite 101  
Lanham, MD. 20706  
(301) 577-5882

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I N D E X

	<u>Page</u>
Preliminary Matters	2
Court Qualifies Defendant	5
Statement of Facts by Deborah Johnson, Esq. Attorney for the Government	7
Ruling by Judge Quarles	9
Government's Disposition	9
Comments by Howard Cardin, Esq. Attorney for the Defendant	15
Comments by Steven Levine, Esq. Attorney for the Defendant	21
Sentencing by Judge Quarles	24

<u>EXHIBITS:</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
<u>For the Government:</u>		

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Keynote: "---" indicates inaudible in transcript.

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1                                   P R O C E E D I N G S

2                   THE COURT:   Good afternoon please be seated.

3                   (Chorus of "Good afternoon, Your Honor.")

4                   MS. JOHNSON:   Good afternoon, we are here in the  
5 matter of the United States of America versus Anthony J.  
6 Marcantoni, case number AMD-03-0088.   I am Deborah Johnson  
7 representing the Government. Seated with me at counsel table is  
8 Probation Officer John Allen.

9                   THE COURT:   Ms. Johnson, Mr. Albert, good afternoon.

10                  MR. ALBERT:   Good afternoon, Your Honor.

11                  MR. CARDIN:   Good afternoon, Your Honor, Howard  
12 Cardin, Steven Levine representing Mr. Marcantoni.

13                  THE COURT:   Mr. Cardin, Mr. Levine, Mr. Marcantoni.  
14 How are we proceeding counsel?

15                  MR. CARDIN:   Your Honor, frankly I think I am  
16 reading the notice of violation for the first time. Obviously  
17 my client was convicted through the United States District  
18 Court for the District of Maryland before His Honor Judge Titus  
19 and I assume that that is the grounds for the violation.

20                  MS. JOHNSON:   Your Honor, I believe there are  
21 multiple ground for the violation. And the most recent  
22 petition was filed on June 15, 2011. I think it was a sealed  
23 document at that time, Document 82 in the record. We are -- if  
24 the defendant acknowledges and admits his violation based on  
25 that conviction, we will move to dismiss the other grounds

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1 which include failing to file written reports and filing  
2 reports that contain false information.

3 THE COURT: You are proceeding on the -- which dated  
4 one?

5 MS. JOHNSON: Your Honor, it is document 82, filed  
6 on June 15, 2011.

7 THE COURT: Okay.

8 MR. CARDIN: Again, Your Honor, we are obviously  
9 prepared to admit the conviction before Judge Titus, in this  
10 Court only in the southern district.

11 THE COURT: The June 15 does not have the conviction  
12 but I assume --- be willing to admit the statutory conviction  
13 which will not illegally possess a controlled substance and  
14 clearly the conviction means that he violated that statutory  
15 condition. That would be the second whereas on the carryover  
16 sheet of the June 15, 2011 --

17 MS. JOHNSON: As well as the first one, Your Honor,  
18 which is shall not commit any federal, state or local crime.

19 THE COURT: Yes.

20 MR. CARDIN: Yes.

21 MS. JOHNSON: I think at the third one as well as  
22 admitted with our -- with his guilty plea, the first three are  
23 admitted and it would be the last three that are not.

24 THE COURT: Okay, well, I don't have the plea in  
25 front of me. I do have the conviction and the conviction

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1 establishes --- any agreed upon disposition folks?

2 MS. JOHNSON: No, Your Honor. There is no agreed on  
3 disposition.

4 MR. CARDIN: We would like to but no, Your Honor, we  
5 have not agreed on disposition.

6 THE COURT: Usually you all work those out.

7 MR. CARDIN: We seem to think there should have  
8 been, but no there is no agreed disposition.

9 THE COURT: Okay. Madam Clerk will you please  
10 swear Mr. Marcantoni.

11 (Whereupon, the defendant was sworn in.)

12 THE DEFENDANT: Yes, ma'am.

13 THE CLERK: Thank you. Please state your full name  
14 for the record.

15 THE DEFENDANT: Anthony Joseph Marcantoni.

16 THE CLERK: Thank you. What is your age?

17 THE DEFENDANT: 32.

18 THE CLERK: And what year were you born?

19 THE DEFENDANT: 1980.

20 THE CLERK: Thank you.

21 THE COURT: All right, Mr. Marcantoni, how far did  
22 you go in school?

23 THE DEFENDANT: 52 credits of college.

24 THE COURT: Can you read, write and understand the  
25 English language?

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1 THE DEFENDANT: Yes, sir.

2 THE COURT: Can you understand as it is being spoken  
3 this afternoon?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Do you understand that you are admitting  
6 two violations of supervised release? What is the -- what is  
7 the -- what grade is the -- the shall not commit any federal,  
8 state or local crime?

9 MR. CARDIN: Your Honor, violation is Grade A.

10 THE COURT: Okay, thanks. Anyway, Mr. Marcantoni,  
11 you understand that you are admitting a Grade A violation of  
12 supervised release. This violation would expose you to a  
13 guidelines range of imprisonment of 12 to 18 months. You don't  
14 have to admit the violation. You can require the Government to  
15 prove the violation at a hearing where they would through  
16 witnesses and documents, attempt to prove by preponderance of  
17 the evidence that you did in fact violate these conditions of  
18 supervised release.

19 At that hearing, you will also have a right to be  
20 represented by counsel. You will have the right to put on your  
21 own evidence, call your own witnesses as well as of course,  
22 cross examine the Government's witnesses and object to the  
23 evidence.

24 And of course, if you needed additional time to  
25 prepare for that hearing, I would give you a reasonable

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1 postponement for that. Do you understand the rights that you  
2 are giving up, sir?

3 THE DEFENDANT: Yes, I do, Your Honor.

4 THE COURT: And are you willing to proceed with --  
5 by waiving those rights?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Thank you. Please have a seat.  
8 Government's evidence? Proffer?

9 MS. JOHNSON: Yes, Your Honor. If that -- we would  
10 present to the Court a copy of his signed guilty plea that was  
11 entered in the Court in case number 10-000777-RWT, it was  
12 signed and executed by him on September 11, 2012. In  
13 particular, in the statement of facts, the defendant admitted  
14 that between 2008 and at least at or about January 2011, he  
15 knowingly conspired to distribute and possess with intent to  
16 distribute 100 kilograms or more of marijuana. And he  
17 acknowledged who his co-conspirators were.

18 He acknowledged in the signed statement of facts  
19 that he served as a dealer and a distributor in the marijuana  
20 conspiracy and that he received shipments that ranged from 50  
21 to 250 pounds and those shipments occurred sometimes as often  
22 as twice per month.

23 That he -- that the co-conspirators collected money  
24 from him on more than 10 occasions, collecting more than  
25 \$100,000 from him on multiple different occasions. And I would

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1 submit this as Government's Exhibit 1 for the record.

2 THE COURT: Government 1 is admitted.

3 (The document referred to was  
4 marked for identification as  
5 Government's Exhibit 1 and was  
6 received in evidence.)

7 THE COURT: May I see it please? Thank you.

8 MR. CARDIN: May I make one comment, Your Honor?

9 THE COURT: Yes, sir?

10 MR. CARDIN: Thank you. We did proceed rather  
11 rapidly and perhaps the allegations in count 1 and 2 should  
12 have reflected 100 kilograms rather than 1,000 kilograms.  
13 Because I think the numbers were changed when we did execute  
14 the plea agreement.

15 MS. JOHNSON: Your Honor, I don't think that -- I  
16 don't know that that affects the -- his admission but he is  
17 admitting that he violated any federal, state or local law. As  
18 part of plea negotiations in this case, we allowed Mr.  
19 Marcantoni to -- we negotiated a plea and allowed him to plead  
20 to the 100 kilograms or more with a mandatory 10 years instead  
21 of a mandatory 20 years that came with the 1,000 kilograms or  
22 more.

23 THE COURT: Well, the finding of the JNC of course  
24 would be just the violation of the statutory condition, did not  
25 or shall not commit any federal, state or local crime, do not

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1 illegally possess a controlled substance so there will not be a  
2 quantity in the finding or the judgement of commitment order.

3 MR. CARDIN: Right. Thank you.

4 THE COURT: Any other --- anything further? Any  
5 deletions, additions or corrections?

6 MR. CARDIN: No, Your Honor.

7 THE COURT: Mr. Marcantoni, did you hear what Ms.  
8 Johnston told me?

9 THE DEFENDANT: Yes, I did.

10 THE COURT: Did she tell me the truth?

11 THE DEFENDANT: Yes.

12 THE COURT: Are you admitting the violation of your  
13 own free will?

14 THE DEFENDANT: Yes, I am, Your Honor.

15 THE COURT: Are you admitting the violation because  
16 you did in fact commit it?

17 THE DEFENDANT: Yes, I did, Your Honor.

18 THE COURT: Good. Then I find that the Government  
19 has proffered facts sufficient to prove by a preponderance of  
20 the evidence that you violated statutory condition thall shall  
21 not commit any federal, state or local crime and the statutory  
22 condition that you should illegally possess a controlled  
23 substance. What is the Government's position on disposition?

24 MS. JOHNSON: Your Honor, the Government in this  
25 case is asking the Court to impose a term of imprisonment.

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1 Consecutive to the sentence that he is now serving. I think it  
2 is important in this case, I know that Your Honor was not the  
3 Judge who sat over the original case nor was I the prosecutor  
4 involved in that original case that he is on supervised release  
5 for.

6 But back in 2003, he plead guilty I think on the eve  
7 of trial or on the morning of trial in that case as well, plead  
8 guilty to the distribution of 100 kilograms or more of  
9 marijuana. And that instances guideline range was I believe 70  
10 months, was the bottom of that guideline range. And the Court  
11 at that time imposed a sentence below the guideline range, a  
12 sentence of 60 months.

13 The guideline range was actually 78 to 97 months.  
14 Judge Davis gave him the benefit of believing that, I guess a  
15 term of 60 months would be adequate to assure that the purposes  
16 of sentencing were met and he was placed on that 60 month  
17 sentence.

18 He was placed on supervised release on that sentence  
19 on March 18, 2008. As is set forth in our statement of facts  
20 to the plea agreement which Mr. Marcantoni has --- as truthful,  
21 in 2008, he was back involved in marijuana, he was back selling  
22 marijuana. Counsel submitted to the Court a sentencing memo  
23 telling the Court what a great man he is and what wonderful  
24 contributions he is making to the community. Well, he was  
25 making his living selling marijuana.

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1 He agreed in this statement of facts to that fact,  
2 to the fact that he was receiving loads of marijuana ranging  
3 from 50 to 250 pounds at a time. That he was paying for those.  
4 Co-conspirators were collecting money from him. Sometimes as  
5 much as \$100,000 at a time and one co-conspirator collected  
6 money from him on at least 10 different occasions.

7 He has consented to a \$500,000 forfeiture being  
8 entered against him in this case representing some of the  
9 proceeds he received as well as a Rolex watch. He was part of  
10 a business here, Your Honor. He and in fact, some of the  
11 leaders of this conspiracy are still fugitives but he received  
12 a Rolex watch as a reward for being such a good salesman for  
13 them here in Baltimore -- in Baltimore County, Maryland.

14 And he has agreed now to forfeit that watch as well  
15 as the \$500,000. But what it is particularly alarming to the  
16 Government is that this individual was put on probation in 2008  
17 with Mr. Albert and shortly thereafter, was right back in this  
18 business, right back into selling drugs. In spite of the  
19 sentence he received and in spite of the 60 month sentence he  
20 served.

21 And with that, he is contacted by Mr. Albert because  
22 he has violated some -- not filing his reports as he should.  
23 They tried some intermediate actions with him and all of the  
24 while he is dealing with Mr. Albert, he is selling his  
25 marijuana. He is back there doing the same business. Mr.

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1 Albert is trying to tell him that he is on the radar screen.  
2 You are not filing your reports, you are doing some other  
3 things. And he put in some temporary steps hoping to get  
4 Mr. Marcantoni on the right track.

5 But Mr. Marcantoni is out there selling marijuana,  
6 on a day in and day out basis making hundreds of thousands of  
7 dollars, if not millions of dollars selling marijuana here in  
8 Baltimore County, Baltimore Maryland. So in this instance,  
9 counsel asks the Court to just impose a concurrent sentence. A  
10 guideline state in Section 7(B)(1.3) that a term of  
11 imprisonment should be imposed that is consecutive to the  
12 sentence imposed even if that sentence is for the conviction  
13 as to the basis of the underlying violation.

14 A message has to be sent to Mr. Marcantoni but not  
15 only to Mr. Marcantoni but other people out in the community  
16 that if you violate supervised release, it doesn't just get  
17 washed into what you -- the basis for your violation. To give  
18 Mr. Marcantoni what he is asking for here which is the same 120  
19 months sentence or a sentence concurrent with 120 month  
20 sentence that Judge Titus imposed. --- is to say that it  
21 doesn't matter that you violated supervised release, that it  
22 makes no difference because you are not getting any more of the  
23 sentence than Judge Titus imposed.

24 Judge Titus had to give him 120 months. So he gave  
25 him the low end of the guidelines which was 121 months.

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1 Mr. Marcantoni didn't take supervised release serious. Mr.  
2 Albert was in contact with him throughout the time when he was  
3 on supervised release, throughout the time that he has admitted  
4 that he continued to sell marijuana. We are not talking about  
5 somebody who is selling a \$20 bag of marijuana here. Or a half  
6 a pound there.

7 We are talking about somebody who was getting 50  
8 pounds, 100 pounds, 250 pounds in one shipment and then  
9 dispensing that and taking that money and living off of it and  
10 living off of it very well here in this community. So we are  
11 asking the Court to impose a sentence in this case consecutive  
12 to what Judge Titus has imposed.

13 And quite frankly it is the Government's position  
14 that given the scope of his violation, as I said, it is not  
15 somebody who was on probation for selling crack, who then goes  
16 out on the street corner and sells a couple of \$20 rocks of  
17 crack. This is someone who made the deliberate intention to I  
18 am back on supervised release, I am back in the business of  
19 selling marijuana.

20 And that is what he did. And he didn't care that he  
21 had to report to Mr. Albert. He didn't care that he was on  
22 supervised release. He felt comfortable that he could get away  
23 with it. And for that reason, we are asking the Court to  
24 impose the maximum that the Court can impose in this case. We  
25 think it is justified to go above the sentencing guidelines,

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1 given the pervasive day in, day out violation, the scope of his  
2 criminal conduct while on supervised release and also note that  
3 under the guidelines as well, Section 71.4, provides for the  
4 Court to go over that guideline range where a defendant  
5 received a break on his initial sentence.

6           And then this initial sentence in this case, he in  
7 essence got a break from Judge Davis when Judge Davis didn't  
8 sentence him within the guideline range of 78 to 98 months,  
9 rather Judge David imposed the mandatory minimum sentence of 60  
10 months. Which is what counsel is asking the Court to do in  
11 this case, don't give him any more time, just let him serve  
12 that 121 months because that is what he got from Judge Titus.

13           Given the fact that he had a benefit there and he  
14 didn't take advantage of it, he was put on notice with  
15 probation, he knew he was on supervised release and he went  
16 back into this business. And made hundreds of thousands of  
17 dollars, as I said if not millions. So we are asking the Court  
18 to impose a consecutive sentence of 36 months.

19           So at least now when maybe Mr. Marcantoni gets out,  
20 and has his 8 year supervised release in Judge Titus' case,  
21 perhaps now he will take supervised release seriously. I have  
22 to tell you, Your Honor, at the time he plead guilty, one of  
23 the things the questioned Judge Titus about is why did he have  
24 to have 8 years of supervised release after he served his 10  
25 years sentence.

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1 And I have the transcript if the Court wants to see  
2 that. So he was concerned that he should have to be put on  
3 supervised release after that. So we are asking the Court so  
4 that he will take his supervised release seriously the next  
5 time that the Court imposed the mandatory -- the maximum  
6 sentence consecutive to what he served.

7 THE COURT: Thank you. Defense?

8 MR. CARDIN: Thank you, Your Honor. Your Honor, we  
9 would ask that both Mr. Levine and I have the opportunity to  
10 address the Court. On different matters, we will not repeat  
11 what we are saying. I have listened as I always would to what  
12 counsel has to say and one of the first things I noted was that  
13 Ms. Johnson indicated that she is not in the prosecutor who was  
14 at the original trial before Judge Davis.

15 Mr. Hamlin and most of my communications went back  
16 and forth with him because I had anticipated that he would be  
17 here. So, the fact that he is not, I suggested to this Court,  
18 leaves us in a position where there are a number of questions  
19 that might otherwise be answered which can't be because he is  
20 not here, although certainly available.

21 Let me say this, I was there. And contrary to what  
22 the Government represented, it was not on the eve of trial that  
23 Mr. Marcantoni plead guilty but in fact, it was probably about  
24 three weeks into trial, we were only sitting two days a week  
25 because Judge Davis had commitments, I think down at the Fourth

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1 Circuit, but wherever it was, it was out of state. And the  
2 guilty plea was prompted by a comment by Judge Davis and then  
3 many meetings in the Court's chambers, when Judge Davis on the  
4 record said why are we in trial here?

5 And indicated that this case should be resolved and  
6 indicated at that time and there was also discussion on the  
7 record as to whether or not mandatory sentencing was  
8 appropriate in this case. So I don't want this Court to think  
9 that Judge Davis gave him a break because Judge Davis thought  
10 that the guidelines did not apply.

11 Judge Davis did not believe that the guidelines were  
12 appropriate in this case in the very beginning and he announced  
13 that in open court. Now, having said that, Mr. Marcantoni did  
14 enter a plea of guilty before Judge Davis. And we went through  
15 any number of things before the Judge in conversation because  
16 there were things that the Court wanted to know and the Court  
17 received the sentence.

18 Indeed, Mr. Marcantoni was placed on supervised  
19 release. That is obvious and required. Counsel remarks that  
20 Mr. Marcantoni questioned this supervised release. What  
21 Mr. Marcantoni questioned was the Government filing its 851  
22 motion at the last minute, which had the effect of increasing  
23 the supervised release from four years to eight years.

24 And that was all part of the presentation that I  
25 made and I am about to make to this Court. That I believe and

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1 I submit on behalf of Mr. Marcantoni that he has not been  
2 treated fairly since being released on supervised release. Or  
3 at least from the time that he began under the supervision of  
4 Mr. Albert. So let me explain.

5 Mr. Marcantoni has always been fair and honest with  
6 this Court. Whether it be before Your Honor, whether it be  
7 before Judge Davis, or before Judge Titus. And I will tell the  
8 Court that the issues that were raised and were litigated  
9 before Judge Titus, day after day in many respects, were issues  
10 that I still believe should have been exercised and should have  
11 been resolved by appellate courts I think.

12 There are many, many issues which we and I use we  
13 because we are the --- waived the in the plea agreement before  
14 Judge Titus. Actually an agreement was negotiated, you want to  
15 talk on the eve of trial, we didn't finish before Judge Titus  
16 on that Monday if I remember it being a Monday, probably about  
17 3:00 or 3:30 in the afternoon.

18 And so it was not until the next day when we were  
19 able to even provide that plea agreement to Mr. Marcantoni  
20 because he had been taken from the courthouse by the marshals  
21 back to his house unit if you will. But he did -- he did enter  
22 into the plea. And there are factors there that we believe had  
23 we had the time to negotiate, would have been more favorable to  
24 him.

25 But that is not for today. Because that agreement

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1 was executed and is before the Court and we stand by it. But I  
2 can tell the Court this, Mr. Marcantoni was released. He went  
3 on to supervised release and from the minute he went on, there  
4 was a problem. There was a personality conflict between him and  
5 Mr. Albert.

6 Now when the Government stands before you and I know  
7 Your Honor was a prosecutor, you have to rely upon the persons  
8 who provided you with the information. Whether it be agents,  
9 whether it be probation officers and I suggest that much of the  
10 presentation before the Court, be it this Court, Judge Titus',  
11 have been influenced by the conduct of Mr. Albert.

12 And I will stand before this Court and say that  
13 Mr. Albert has been dishonest in the Court, he has been  
14 dishonest to counsel and dishonest to Mr. Marcantoni. Now  
15 Mr. Marcantoni was indicted in Baltimore County. And indeed he  
16 surrendered in Baltimore County, he was released. And he was  
17 advised by Mr. Albert that there would be a violation filed.  
18 Of course there would be.

19 At that time, Mr. Marcantoni had secured the  
20 services of Andrew White, an attorney, in this city and I know  
21 the Court is familiar with him. And Mr. White and Mr. --- came  
22 into court to testify to this, Mr. White spoke to Mr. Albert  
23 and Mr. Albert agreed that Mr. Marcantoni would not be  
24 arrested, he could come into court ---.

25 However, in spite of that representation, Mr.

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1 Marcantoni is arrested, he is brought into court and because of  
2 that, obviously the detention hearing has a different vein.  
3 And from that day on, everything went down. And I will tell  
4 this Court, we went through hearing after hearing dealing with  
5 allegations that Mr. Marcantoni was violating electronic  
6 surveillance. Electronic monitoring. That became required  
7 because he had been indicted in Baltimore County and Mr. Albert  
8 was asking for that.

9           And we went on and on, violation after violation  
10 being noted. That he was away from his residence and he swore  
11 he wasn't. And we had witnesses that showed that he wasn't.  
12 It came time when the Court ordered that Mr. Stokes, Todd  
13 Stokes go out and check. And indeed Mr. Stokes found that the  
14 apparatus was indeed faulty. Was giving false reports.

15           But you see Mr. Albert wouldn't accept that. Now,  
16 Mr. Albert is not on trial, Mr. Marcantoni is. But the  
17 Government is standing before this Court and asking for  
18 consecutive time and I am saying to this Court that there is  
19 absolutely no reason why there should be any such action.  
20 Mr. Marcantoni received the top of the guidelines and those  
21 guidelines were calculated including an enhancement for being  
22 on supervised release.

23           So he has been punished. It has been calculated, it  
24 has been included. I am not going to stand before this Court  
25 and say that Mr. Marcantoni did not commit an offense. He did.

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1 And he has been punished for it. He has received a sentence.  
2 And as the Court will hear in a moment from Mr. Levine, indeed  
3 he has been punished more severely than anybody else in this  
4 conspiracy.

5 But I know this, Mr. Marcantoni is a good man. And  
6 for the Government to stand here and say that he made millions,  
7 there is no such thing. For the Government to say that he  
8 didn't honor his commitments when required to report to submit  
9 income tax returns, he did everything.

10 This Court is stepping into the shoes of Judge  
11 Davis. Nobody knows what Judge Davis ---. But I know that  
12 when the Court looks at Anthony Marcantoni and looks at him  
13 personally, looks at his accomplishments as we tried to point  
14 out and realize that it was a stage he was placed on where one  
15 is not seeing the true picture but is being shown a picture,  
16 colored if you will, by bias then I suggest that this Court  
17 will look and see this man's received 121 months incarceration.  
18 And indeed for this type of offense, has indicated a purveyor  
19 if you will of marijuana, that certainly is ---.

20 And that is why I stand before this Court and ask  
21 this Court in imposing any sentence, that it be concurrent with  
22 that of Judge Titus. And if I may, Your Honor, I would like  
23 to ask I --- by Mr. Levine.

24 MR. LEVINE: Thank you, Your Honor, good afternoon.

25 THE COURT: Good afternoon.

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1 MR. LEVINE: Your Honor, at some point when it comes  
2 to the length of a prison sentence, we have to ask when is  
3 enough enough? And I know Your Honor has asked that question,  
4 the Government raised the fact that the guidelines indicate  
5 that it should -- a violation should run consecutive to a term  
6 of confinement for the actual offense.

7 I know Your Honor has disagreed in the past. In  
8 doing some research, I did come across the case of United  
9 States versus Randall Paul Schreve, Your Honor handled the  
10 sentencing of that case for the substantive offense last year  
11 and then followed that with a violation hearing.

12 Your Honor gave Mr. Schreve the top of the  
13 guidelines for that. And immediately thereafter, there was a  
14 violation hearing and Your Honor sentenced Mr. Schreve to 24  
15 months to run concurrent. So Your Honor recognized at that  
16 point in that case, that Mr. Schreve had gotten significant  
17 sentence, it was sufficient to send a message.

18 Like Mr. Schreve, Mr. Marcantoni received the top  
19 of the guidelines. That sentence of 121 months in a non-  
20 violent case, was far more than any one else who has thus far  
21 been sentenced who plead guilty in that conspiracy. I know  
22 Your Honor has read the papers and I won't go over each  
23 sentence that each co-defendant has received.

24 But Mr. Marcantoni faced a mandatory minimum  
25 sentence of 10 years because of the 851 enhancement. Because

1 of his prior conviction. But for that enhancement, he would  
2 have been looking at 97 months to 121 months. But for the  
3 violation, which has already been taken into account, he would  
4 have been looking at a criminal history category less than he  
5 was looking at because that was factored into the guidelines  
6 calculation.

7           So in effect, Mr. Marcantoni was facing and received  
8 a higher sentence because these factors were taken into  
9 account. As the Court knows from the submission, there is a  
10 lot of good in Mr. Marcantoni, in fact, we heard the same  
11 arguments today from the Government that Judge Titus heard at  
12 Mr. Marcantoni's sentencing. And although there was a little  
13 bit more at the sentencing, the Government criticized  
14 Mr. Marcantoni's efforts to start a martial arts studio.

15           They suggested that the people he was keeping  
16 company with were not the type of people one should associate  
17 with. In fact, Mr. Cardin retrieved a poster yesterday which  
18 he saw on display in Baltimore City and it shows Mr.  
19 Marcantoni's business partner at --- which is a juhitsu Martial  
20 Arts studio and if I can just --

21           (Pause.)

22           MR. LEVINE: Your Honor, if I may approach?

23           THE COURT: Yes.

24           MR. LEVINE: That is a poster of Mr. John

25 Ryland(sic) who helped run Ground Control and here is a news

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1 release about this campaign, --- mayors, that is Baltimore City  
2 Mayor's anti-animal abuse advisory commission. "Show your soft  
3 side campaign aimed at changing the mind set of troubled teens  
4 who abuse animals in an attempt to appear, 'men'." So this is  
5 one of the people that Mr. Marcantoni associated himself with.

6 I would say that Mr. Marcantoni is a lot more than  
7 the marijuana conviction would suggest. He raised money for a  
8 widow and her young child. He started a business, a legitimate  
9 business which helped members of the community as reflected in  
10 the various letters.

11 Your Honor, the bottom line is that Mr. Marcantoni  
12 still has a great deal that he can contribute to society and  
13 unfortunately those contributions have been on hold. They have  
14 been on hold for a very long time. 121 months. We are simply  
15 the Court to recognize as this Court has recognized in other  
16 cases, that he has -- he is not getting away with anything.

17 His violation has been considered in the guideline  
18 range calculation. It was considered in the plea negotiation  
19 when counsel tried to get under the 121 months. But the fact  
20 that Mr. Marcantoni had done this before and was on supervised  
21 release, played a part in obtaining the plea that we received.  
22 The one that demanded mandatory minimum of 10 years and 8 years  
23 of supervised release.

24 Mr. Marcantoni is older now. He has been confined  
25 since he was arrested on this offense. He -- I don't hesitate

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1 to say that I know Mr. Marcantoni has learned a lesson here. I  
2 can't imagine he will ever find himself in a courtroom again.  
3 And we just have to say enough is enough when it comes to a  
4 lengthy prison sentence, Your Honor, there is no reason that  
5 a -- there is nothing that a consecutive sentence will do.

6 It will not suggest to the community that -- a  
7 concurrent sentence would not suggest to the community that Mr.  
8 Marcantoni has gotten away with something. The community has  
9 seen that he has been punished significantly for what he did,  
10 and for what he plead guilty for. Thank you.

11 THE COURT: Thank you. Mr. Marcantoni, please  
12 stand. In this case I find that revocation is appropriate and  
13 supervised release is revoked. This is perhaps my most hotly  
14 contested violation is supervised release. The violations  
15 alleged are serious and I have heard a good bit of discussion  
16 about the personality conflict between the probation agent and  
17 Mr. Marcantoni.

18 Of course the personality conflict does not excuse  
19 the subsequent criminal conduct which is where the additional  
20 punishment for the violation itself. Accordingly I find that a  
21 variance from the guidelines would be sufficient to reflect the  
22 seriousness of the offense and to deter comparable conduct,  
23 very limited aims (sic) of the sentence and that variance would  
24 be sufficient and not greater than necessary to again reflect  
25 seriousness of the violation and to deter comparable conduct.

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1                   Accordingly, Mr. Marcantoni, I commit you to the  
2 custody of the Attorney General as authorized designee of the  
3 Bureau of Prisons, serve a term of imprisonment of six months.  
4 That will be six months consecutive to the time that you were  
5 serving on Judge Titus' conviction. Do you understand the  
6 sentence?

7                   THE DEFENDANT: I do, Your Honor.

8                   THE COURT: You have 14 days from today's date to  
9 file an appeal. If you cannot afford to pay a filing fee, you  
10 can appeal without a fee, do you understand?

11                  THE DEFENDANT: I do.

12                  THE COURT: Thank you. Good day.

13                  MR. CARDIN: Thank you, Your Honor.

14                  (Whereupon, the hearing concluded.)  
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C E R T I F I C A T E

I certify that the foregoing is a correct transcript from electronic sound recording of the proceedings in the above-entitled matter.

/s/ Lisa Contreras

Lisa Contreras

Certified Transcriber

Certificate No. CET\*\*D-474

September 25, 2013

Date